United Nations Convention on the Law of the Sea SPLOS/208

Meeting of States Parties

Distr.: General
5 April 2010

Original: English

Twentieth Meeting
New York, 14-18 June 2010

Issues related to the workload of the Commission on the Limits of the Continental Shelf

Note by the Secretariat

Summary

On 26 June 2009, the nineteenth Meeting of States Parties requested the Secretariat to prepare an update of the note contained in document SPLOS/157, on the basis of the discussions at the nineteenth Meeting of States Parties and any further information provided by States parties and observers, and in due time before the next Meeting, to facilitate a comprehensive review by States parties (SPLOS/203, para. 95).

The present note has been prepared pursuant to that request.

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I. Introduction

1. The nineteenth Meeting of States Parties, held in June 2009, following the deliberations on agenda item 10, entitled "Commission on the Limits of the Continental Shelf: (a) information reported by the Chairman of the Commission; (b) workload of the Commission", adopted an agreed outcome in which it requested the Secretariat to prepare an update of the note contained in document SPLOS/157, on the basis of the discussions at the nineteenth Meeting of States Parties and any further information provided by States parties and observers, and in due time before the next Meeting, to facilitate a comprehensive review by States parties.[1] It also decided that the bureau of the nineteenth Meeting of States Parties would facilitate an informal working group to continue consideration of the issues related to the workload of the Commission.[2]

2. On 17 August 2009, pursuant to that request, the Secretariat addressed a circular note verbale to all States parties and observer States requesting them to provide any information deemed to be relevant on the matter, preferably by 30 November 2009.

3. In response, the Secretariat received information from Sri Lanka through notes verbales dated 2 and 11 December 2009, and from Kenya through a note verbale dated 22 February 2010.[3]

4. Moreover, it is recalled that pursuant to the agreed outcome, the Bureau of the nineteenth Meeting of States Parties facilitated an Informal Working Group to continue consideration of the issues related to the workload of the Commission. At the time of preparation of the present note the Informal Working Group had held six meetings.

5. The Bureau also met with the members of the Commission on 1 September 2009 to discuss the difficulties the Commission had faced in addressing its increased workload.[4]

6. On 26 January 2010, the Chairman of the Commission attended the fourth meeting of the Informal Working Group, at the invitation of the Coordinator, to provide clarifications on the current working arrangements of the Commission as well as on its increased workload and on possible ways to address it.

7. At the request of the Coordinator, by letters dated 20 January and 12 February 2010, the Director of the Division for Ocean Affairs and the Law of the Sea, Office of Legal Affairs (hereinafter the "Division"), provided preliminary information on budgetary implications relating to the increased workload of the Commission.[5]

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[1] SPLOS/203, para. 95.

[2] Ibid.

[3] The Secretariat also received a note verbale from Bangladesh dated 29 March 2010 concerning the note verbale from Kenya. Communications from Bangladesh, Kenya and Sri Lanka are available on the website of the Division from www.un.org/Depts/los.

[4] For more details see CLCS/64, para. 125. The presentation delivered to the Bureau on 1 September 2009 is available from http://www.un.org/Depts/los/clcs_new/presentation_to_bureau_msp_2009.pdf.

[5] Available on the website of the Division from www.un.org/Depts/los.

8. Pursuant to paragraph 53 of General Assembly resolution 64/71,[6] the Coordinator, through a letter dated 15 March 2010, submitted comments to the Secretary-General in the context of the update of document SPLOS/157.

9. Parts II and III of the present note, respectively, outline the current working arrangements of the Commission and its secretariat, as well as the measures they have already taken to address the workload of the Commission. Part IV describes the increased workload of the Commission under the current working arrangements. Part V provides an overview of measures to further address the increased workload of the Commission. Part VI outlines the financing options to implement such measures. Lastly, part VII offers considerations on the measures proposed, which are based on the experience of the Secretariat in servicing the Commission. The present note does not address programme budget implications of various proposals referred to therein. A statement of programme budget implications will be prepared in accordance with established procedures, if appropriate.

II. Current working arrangements of the Commission and measures taken by the Commission to address its workload

Duration and frequency of sessions of the Commission and intersessional meetings of its subcommissions

10. At its fourteenth session, held in 2004, the Commission observed that, given the number and volume of projected submissions, two sessions per year, consisting of one week of plenary meetings followed by two weeks of subcommission work, would not suffice to deal with its workload. Therefore, it decided to increase the duration of its sessions. Whereas in 2004 the Commission had met for a total of four weeks, which included two weeks of plenary meetings and two weeks of meetings of subcommissions, in 2009 the Commission tripled the amount of time it was in session, reaching a total of 13 weeks, which included four weeks of plenary meetings, six weeks of meetings of subcommissions and three weeks of intersessional meetings.[7] The Commission started convening intersessional meetings of its subcommissions in the Geographic Information System (GIS) laboratories of

[6] See below, para. 31.

[7] The duration of the fifteenth through nineteenth sessions was detailed in SPLOS/157, para. 32. The duration of the last five sessions, including both plenary meetings of the Commission and meetings by the subcommissions was as follows:

(a) Twentieth session: 27 August-14 September 2007, 1 full week of plenary meetings and 2 weeks of meetings of the subcommissions;

(b) Twenty-first session: 17 March-18 April 2008, 2 weeks of plenary meetings and 3 weeks of meetings of the subcommissions;

(c) Twenty-second session: 11 August-12 September 2008, 2 weeks of plenary meetings and 3 weeks of meetings of the subcommissions;

(d) Twenty-third session: 2 March-9 April 2009, 2 weeks of plenary meetings and 3 weeks of meetings of the subcommissions;

(e) Twenty-fourth session: 10 August-11 September 2009, 2 weeks of plenary meetings and 3 weeks of meetings of the subcommissions.

the Division in 2005.[8] The scheduling of intersessional meetings depends on the programme of work agreed upon by the members of each subcommission and on the availability of their members and the delegations of the submitting coastal States concerned. In general, such intersessional meetings have resulted in a more efficient use of the time of the members of the Commission and of the geographic information system laboratories.

Subcommissions

11. According to paragraphs 4 bis and 4 ter of rule 51 of the rules of procedure of the Commission,[9] "[u]nless the Commission decides otherwise, only three subcommissions shall function simultaneously while considering submissions" and "[t]he submissions shall be queued in the order they are received. The submission next in line shall be taken for consideration by a subcommission only after one of the three working subcommissions presents its recommendations to the Commission".

12. The above-mentioned provisions were adopted in view of the difficulties experienced by the Commission in examining five submissions simultaneously during the eighteenth session,[10] since the active subcommissions outnumbered the number of GIS laboratories and could not be properly serviced by the staff available in the Division. In addition, the fact that several members of the Commission were members of two or more subcommissions posed practical difficulties in reaching the quorum to take decisions in certain subcommissions while other subcommissions were simultaneously in session. However, when circumstances so allowed, in order to ensure expediency and efficiency in the light of the large number of submissions, the Commission decided to establish subcommissions additional to the three already actively examining respective submissions.[11]

13. The establishment of more than three subcommissions has proven to be feasible in practice, provided that work is scheduled so as to avoid more than three subcommissions meeting simultaneously.

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[8] The duration of the resumed sessions, held from 2005 to 2007 to allow subcommissions to meet intersessionally, was detailed in SPLOS/157, para. 34. In 2008 and 2009 subcommissions met during the following intersessional periods:

(a) 21-25 January 2008;
(b) 28 January-1 February 2008;
(c) 1-12 December 2008;
(d) 3-7 August 2009;
(e) 2-6 November 2009;
(f) 7-11 December 2009.

Such intersessional meetings do not occur during or in conjunction with the regular sessions of the Commission. Therefore, they require the members of the subcommissions to spend additional time in New York and, consequently, have financial implications for both these members and for their Governments that defray the cost of their participation. Often such meetings cannot take place without significant additional funds from the Trust Fund for the purpose of defraying the cost of participation of the members of the Commission from developing States in the meetings of the Commission.

[9] CLCS/40/Rev.1.

[10] See CLCS/52, para. 38.

[11] See CLCS/62, para. 44, and CLCS/64, para. 20.

Internal procedural aspects of the work of the Commission

14. Since the issuance of document SPLOS/157, the Commission has examined ways to increase its efficiency as well as the degree of interaction with delegations of submitting coastal States.[12]

15. At its twenty-second session, in 2008, the Commission decided that members of the Commission should have access to all submissions under active consideration at all times, taking into consideration the practical implications and the costs for the Secretariat, so that they could familiarize themselves with the content of submissions, if they wished to do so.[13]

16. According to rule 53 (1) of its rules of procedure and unless the Commission decides otherwise, the recommendations drafted by a subcommission are considered by the Commission during the session following their transmission to the Commission by the subcommission that prepared them. In practice, however, when circumstances so allowed, the Commission has decided to consider and adopt the recommendations at the same session in which they were presented by the subcommission, in order to ensure expediency and efficiency in the light of the large number of submissions.[14]

17. At its twenty-third session, in 2009, the Commission adopted a standardized format for recommendations, as an internal working document, on the understanding that this would constitute a template that should be used by subcommissions to expedite the preparation of future recommendations.[15]

III. Current working arrangements of the Division for Ocean Affairs and the Law of the Sea as secretariat of the Commission and measures it has adopted to address the workload of the Commission

18. According to article 2, paragraph 5, of annex II to the United Nations Convention on the Law of the Sea (hereinafter the "Convention"), "[t]he secretariat of the Commission shall be provided by the Secretary-General of the United Nations". The Division, as the unit of the United Nations Secretariat entrusted to perform the Secretary-General's functions under the Convention, provides, inter alia, secretariat services to the Commission. Currently, a team of 13 staff members is assigned to provide services to the Commission in addition to their other functions in the Division. Notably, while GIS support has been rendered to the satisfaction of the Commission, the provision of such support has been carried out under particularly challenging circumstances. For that reason, the Division highlighted in document SPLOS/157 the need for additional GIS support for the

[12] See SPLOS/135, para. 94. See also SPLOS/135, paras. 74-75, CLCS/48, paras. 39-47, CLCS/50, paras. 31-45, and CLCS/52, para. 41, for the deliberations that led to the amendment to rule 52, which are now reflected in rule 52, as well as in paras. 10.3-5 and 15.1 (c) of annex III to the rules of procedure (CLCS/40/Rev.1).

[13] CLCS/60, para. 61.

[14] See CLCS/62, paras. 9-14, 16-19 and 23-26; CLCS/64, paras. 9-13.

[15] CLCS/62, para. 82.

Commission.[16] At the time of the preparation of the present note, the Division has two GIS officers and a third one was being recruited.

19. In performing the secretariat functions for the Commission, the Division is guided by the Convention and by the rules of procedure of the Commission. The functions include providing the Commission with procedural and administrative assistance, as well as organizing and servicing its sessions and meetings of subcommissions and any subsidiary bodies;[17] the handling of submissions,[18] recommendations[19] and charts and relevant information describing the outer limits of the continental shelf established on the basis of recommendations.[20] As part of its functions, the practice of the Division has been also to carry out certain other activities that have been necessary for the efficient functioning of the Commission, some of which are very time-consuming and resource-intensive, such as the initial verification of the integrity of submissions and identification of discrepancies occurring therein, if any.[21]

20. In relation to the examination of submissions by subcommissions, the Secretariat also provides the Commission with specialized technical assistance through a wide range of GIS services. The assistance ranges from data preparation

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[16] See paras. 19-21 below for more details on the GIS support provided by the Secretariat.

[17] See the rules of procedure of the Commission, in particular rule 3: notification of opening date of session; rule 4: provision of venue; rule 5: agenda (in this connection see also: rule 51, para. 1: inclusion of submissions in the provisional agenda); rule 16, paras. 2 and 3: arrangements related to the sessions of the Commission and meetings of its subcommissions and any subsidiary bodies/provision of staff for sessions and meetings/performance of all work required by the Commission for the effective performance of its functions; rule 18: preparation of financial implication estimates; rule 32: circulation of proposals made by members of the Commission on the Limits of the Continental Shelf during its debate; rule 51: transmission of notification from Commission to State as to when/where the submission will be first considered; annex III.6 and III.10: transmission of communications between subcommissions and coastal State (and translations if needed); annex III.6: arrangements for consultations between Subcommission and delegation of the coastal State; annex III.8: transmission of notification of preliminary timetable from Commission to delegation of the coastal State.

[18] See the rules of procedure of the Commission, in particular rule 44 bis (and annex III, para. 2 (a)): establishment of practical mechanisms to consider the material contained in submissions and ensure its confidentiality if necessary; rule 46: translation of submissions made in language other than English, if needed; rule 47: recording of the submission; rule 48: acknowledgement of the submission; rule 49: notification of the receipt of a submission/publication of the proposed outer limits contained therein; annex II.1: safe custody of the submission; annex II.3: access to confidential material and surveillance thereof through dedicated procedures and in designated rooms; annex II.4: participation in deliberations that involve confidential material; annex II.5: assistance to the Commission in the enforcement of rules on confidentiality; annex III.7: return of confidential material to coastal State.

[19] See the rules of procedure of the Commission, in particular rule 53, para. 3: custody and translation, if needed, of the recommendations; annex III.14: transmission of recommendations from the subcommission to the Chairperson of the Commission.

[20] See the rules of procedure of the Commission, in particular rule 54, para. 1: depositary of the outer limits; rule 54, para. 2: depositary of the delimitation lines, if any; rule 53, para. 3 (and annex III.11.3): due publicity of the outer limits as well as of the recommendations (summary).

[21] Other activities include: assistance provided to the Commission by way of a Secretary and Deputy-Secretary; procedural assistance provided to subcommissions; technical assistance provided to the Commission and its subcommissions; circulation of notes from other States to the members of the Commission and to all States; transmission of recommendations from the Commission to the State; preparation of the drafts of routine documents by the Commission, such as the statements by the Chairmen on the progress of work at each session.

in accordance with analytical needs to hardware and software acquisition, maintenance and operation. The related services were described in detail in paragraph 62 of document SPLOS/157. Such services enable the Commission to focus specifically on scientific and technical issues regarding the data and information contained in a submission.

21. Following the publication of document SPLOS/157, the Division further increased its technical support provided to the Commission by establishing a third GIS laboratory. In addition, the Division upgraded its equipment (both hardware and software) to meet the needs outlined in paragraph 63 (b) and (c) of document SPLOS/157.

IV. Increased workload of the Commission under the current working arrangements

22. As outlined in the annex to the present document, by the end of its twenty-third session, that is, on 9 April 2009, the Commission had adopted recommendations regarding 8[22] of the 13 submissions for which it had established subcommissions and was actively examining the remaining 5 submissions.[23]

23. The workload of the Commission has increased exponentially with the expiration for many States parties of the time period set out in article 4 of annex II to the Convention and in accordance with the decision of the eleventh Meeting of States Parties (SPLOS/72), reaching a total of 51 submissions shortly thereafter. In addition, coastal States have transmitted 43 sets of preliminary information to the Secretary-General, indicative of the outer limits of their continental shelf beyond 200 nautical miles, in accordance with paragraph 1 (a) of the decision taken at the eighteenth Meeting of States Parties (SPLOS/183).

24. At the nineteenth Meeting of States Parties, during the deliberations on agenda item 10,[24] the Chairman of the Commission made an informal presentation, entitled "Present scenario of the practical difficulties in view of the increased workload of the Commission on the Limits of the Continental Shelf",[25] in which he offered a projected schedule for the consideration of submissions received to date and for the adoption of recommendations, based on the existing working arrangements of the Commission and availability of its members in the work of the subcommissions. According to that projection, the recommendations regarding the last submission

[22] Recommendations in regard to the submissions made, respectively, by the Russian Federation, Brazil, Australia, Ireland (in respect of the Porcupine Abyssal Plain), New Zealand, Norway (in respect of the north-east Atlantic and the Arctic), Mexico (in respect of the western polygon in the Gulf of Mexico), as well as in regard to the joint submission made by France, Ireland, Spain and the United Kingdom of Great Britain and Northern Ireland (in respect of the area of the Celtic Sea and the Bay of Biscay).

[23] Submissions made, respectively, by France (in respect of the areas of French Guiana and New Caledonia), Barbados, the United Kingdom of Great Britain and Northern Ireland (in respect of Ascension Island), Indonesia (in respect of the north-west of Sumatra Island), Japan as well as the joint submission made by Mauritius and Seychelles (in respect of the region of the Mascarene Plateau).

[24] "Commission on the Limits of the Continental Shelf: (a) information reported by the Chairman of the Commission; (b) workload of the Commission".

[25] For more details, see SPLOS/203, paras. 81-85.

received by the Commission to date, the one made by Cuba, would be adopted in or around 2030. In that regard, several delegations expressed concern over the increased workload faced by the Commission and the timelines projected by the Chairman.[26]

25. At the time of preparation of the present note, the number of submissions made by coastal States has remained at 51, whereas the sets of preliminary information transmitted to the Secretary-General has risen to 44 and the number of recommendations adopted by the Commission has increased from 8 to 9.[27]

26. In order to assess fully the scope of the future workload of the Commission, it should be borne in mind that the following additional submissions may also be received:

(a) Up to 44 additional submissions from States that have submitted preliminary information to the Secretary-General pursuant to the decision of the eighteenth Meeting of States Parties contained in document SPLOS/183;

(b) Submissions from States that have become parties to the Convention less than 10 years ago;

(c) Submissions from States that may become parties in the future and could therefore make submissions to the Commission within 10 years of the entry into force of the Convention for them;

(d) Additional submissions from States that have thus far made only partial submissions.[28]

27. The exact number of additional submissions referred to above is difficult to foresee since coastal States may elect to make several partial submissions rather than one single submission and, conversely, a group of States may decide to combine a number of submissions in a joint submission.

28. In addition, article 8 of annex II to the Convention opens the possibility for a further increase of the workload of the Commission, since it provides that "[i]n the case of disagreement by the coastal State with the recommendations of the Commission, the coastal State shall, within a reasonable time, make a revised or new submission to the Commission". Thus, additional submissions that fall within this category could be received also in the future.

V. Measures to further address the increased workload of the Commission

29. The nineteenth Meeting of States Parties discussed a number of potential measures to address the workload of the Commission and requested that they be

[26] For more details see SPLOS/203, para. 86.

[27] The recommendations in regard to the submission made by France (in respect of the areas of French Guiana and New Caledonia) were adopted at the twenty-fourth session of the Commission (see CLCS/64, paras. 9-13).

[28] These submissions would be in addition to partial submissions that are expected pursuant to document SPLOS/183, as such partial submissions are accounted for under (a) because States have announced their intention to make them through other correspondence.

addressed in the present note.[29] Chief among them are longer or more frequent sessions as well as the possibility of having the Commission continuously in session, with the coverage of increased expenses of members either from the regular budget of the United Nations, the Trust Fund or by the nominating coastal State, as provided for by the Convention.[30] Delegations also suggested that subcommissions could be composed of fewer than seven members.[31] Several delegations supported a further strengthening of the Division to ensure that it could provide additional services to the Commission in the light of its increased workload.

30. In view of all these proposals, the nineteenth Meeting decided that its Bureau would facilitate an informal working group to continue consideration of the issues related to the increased workload of the Commission.[32]

31. Moreover, the General Assembly, in paragraph 52 of its resolution 64/71, encouraged States to participate actively and contribute constructively to the ongoing work of the informal working group considering the issues related to the workload of the Commission, so that the Meeting of States Parties may consider ways and means, including short-, medium- and long-term measures, to ensure that the Commission can perform its functions under the Convention expeditiously, efficiently and effectively and maintain its high level of quality and expertise. In addition, the Assembly invited the working group to provide comments to the Secretary-General for inclusion in the present note.[33]

32. As mentioned in paragraph 3 above, the Secretariat received information deemed to be relevant on the matter of the workload of the Commission from two States. This information was also brought to the attention of the working group.

33. As mentioned in paragraph 8 above, on 15 March 2010, the Informal Working Group provided, through its Coordinator, its comments to the Secretariat for inclusion in the present note. In particular, the Coordinator stated in his letter the following:

> The comments which aim to reflect proposals submitted to the Informal Working Group can be grouped into the following categories:
>
> *Systemic measures*:
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> (a) Increased number of sessions;
>
> (b) Increased length of sessions;
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> (c) Full-time sitting of the Commission;
>
> (d) Increased number of subcommissions;

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[29] For more details, see SPLOS/203, paras. 88 to 94.

[30] In this connection, it should be noted that several delegations expressed interest in the proposal made by the Commission (SPLOS/195, annex) to clarify the nature and extent of the expenses to be covered by the nominating State pursuant to article 2, para. 5, of annex II to the Convention. However, they pointed out that the arrangements between members of the Commission and their respective nominating States could not be decided upon by the Meeting of States Parties (see SPLOS/203 para. 94).

[31] See article 5 of annex II to the Convention.

[32] See para. 1 above.

[33] See resolution 64/71, para. 53.

(e) Forward planning by the Commission/subcommissions;

(f) Achieving consistency in technical issues and procedural matters by and between subcommissions;

Support measures:

(a) Increased technological support;

(b) Increased secretariat support;

(c) Increased support from outside expertise;

(d) More efficient interaction and dialogue between the Commission and submitting States;

(e) Assistance from other bodies;

Financing options:

(a) States honouring their obligation under article 2, paragraph 5, of annex II to the Convention;

(b) Solutions to be found from existing resources;

(c) Strengthening the existing Trust Fund, including by amending its terms of reference;

(d) Creating a new trust fund;

(e) Assessed contributions from all States parties;

(f) Regular United Nations budget.

A. Increase in frequency of meetings of subcommissions and/or longer sessions of the Commission and/or increase in the number of sessions of the Commission

34. The extension of the time devoted by the Commission for the consideration of submissions, through longer and/or more frequent sessions and intersessional meetings of its subcommissions, has been discussed repeatedly at the Meetings of States Parties, which also acknowledged, however, that it was unrealistic, under the current circumstances, to expect members to work full-time for the Commission, or to go substantially beyond the current level of work, owing to their other commitments in their respective countries. In addition, delegations recognized that extending the duration of the sessions of the Commission would have financial implications for the nominating States parties that defray the expenses of the members of the Commission and for the Trust Fund to enable the participation of the members of the Commission from developing countries in the work of the Commission.[34]

35. Any decision to have longer and/or more frequent sessions of the Commission or meetings of its subcommissions would have financial implications.

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[34] See, for example, SPLOS/164, paras. 60-62, and SPLOS/203, para. 85.

36. In this connection, it should be noted that additional staffing requirements and related costs will necessarily augment with the increase in length of the meetings of the subcommissions and in the number of sessions of the Commission. The other work of the Division would also be affected by an increase in servicing longer and more numerous meetings of subcommissions and sessions of the Commission. In addition, the prolonged presence of members of subcommissions at United Nations Headquarters will most likely entail an increase in costs related to office space.

37. Whereas additional meetings of subcommissions during regular sessions or intersessionally would depend mainly on the availability of members and delegations concerned, the increase of length or frequency of plenaries would have financial implications for the Secretariat.

B. Establishment of a dedicated secretariat for the Commission

38. As indicated above, the Division, as the unit of the United Nations Secretariat entrusted to perform the Secretary-General's functions under the Convention, provides secretariat services to the Commission.

39. States parties have generally expressed support for the idea of strengthening of the Division in anticipation of the projected number of submissions.[35] At the same time, the Commission itself[36] and some delegations[37] emphasized that the Commission should not delegate to the Secretariat tasks where the exercise of scientific and technical judgement regarding the data and information contained in a submission was required. However, it appears that a dedicated secretariat exclusively devoted to the servicing of the Commission would be required in the case of a substantive extension of the duration and frequency of sessions of the Commission or meetings of the subcommissions, and would be inevitable in the case of a Commission operating on a full-time basis. Therefore, the establishment of a dedicated secretariat for the Commission would have financial implications.

C. Commission operating on a full-time basis

40. The idea of the Commission operating on a full-time basis at United Nations Headquarters was not fully explored by the Meeting of States Parties. However, during the debates, States found it unrealistic under the existing working arrangements to expect that members would work full-time for the Commission at Headquarters, or go beyond the current level of work, owing to their other professional commitments in their respective countries.[38] This position was echoed by the Chairman of the Commission.[39] The proposal, however, was included in the comments provided by States parties[40] and was echoed during the meetings of the Informal Working Group.[41]

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[35] See, for example, SPLOS/164, para. 68, and resolution 64/71, para. 50.
[36] See CLCS/44, para. 49.
[37] See SPLOS/164, para. 68.
[38] See SPLOS/164, para. 60.
[39] See SPLOS/203, para. 91.
[40] See above, para. 3.
[41] See above, para. 33.

D. Remote working, teleconferencing and interaction and dialogue between the Commission and submitting States

41. The proposal that members intensify their work at home during the intersessional periods, including through remote working and teleconferencing, was included in the comments provided by States parties.[42] Members of the Commission are already engaged in such work. A further increase in the work carried out from home would be subject to the availability of the members of the Commission. In addition, work carried out at home may raise questions concerning the defraying of the attendant costs by the nominating States. Furthermore, it will be recalled that this measure could not apply to the examination of those submissions for which States have invoked the terms of confidentiality under annex II to the rules of procedure. These terms do not allow members of the Commission to examine away from United Nations Headquarters submissions to which they apply.

42. It will be also recalled that the members of the Commission noted that the examination of submissions required complicated work not only during the sessions of the subcommissions but also in the intersessional periods.[43] However, the most productive interaction and work takes place during sessions and in the meetings of subcommissions.[44]

43. At the nineteenth session, the members of the Commission observed that the productivity of their intersessional work depended on the availability of software applications comparable to those available in the GIS laboratories of the Division as well as on licences that might be expensive and beyond the means of individual members. Recently, further to the upgrade of the facilities of the Division, including the acquisition of additional software packages and licences required by the Commission to analyse submissions,[45] software licences have also been made available to Commission members for use during intersessional work.[46]

44. Teleconferencing, where available, could be adopted as a measure to reduce the travel costs of delegations to meetings with the subcommissions and to ensure a more efficient dialogue between them.

E. Reducing the number of members per subcommission in order to allow the establishment of more subcommissions

45. According to article 5 of annex II to the Convention, "[u]nless the Commission decides otherwise, the Commission shall function by way of subcommissions composed of seven members, appointed in a balanced manner taking into account the specific elements of each submission by a coastal State".

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[42] See above, para. 3.

[43] See CLCS/44, para. 49

[44] See CLCS/52, para. 37.

[45] See CLCS/60, para. 5.

[46] In this connection, it should be recalled that two submitting States have made available to members of the subcommissions examining their submissions software packages necessary to carry out their examinations when away from the GIS laboratories of the Division.

46. As observed in paragraph 52 of SPLOS/157,

> When establishing the subcommissions, the Commission has consistently proceeded in accordance with those provisions, appointing from among nominated candidates seven members of each subcommission, taking into account the specific elements of the submission as well as the need to ensure, to the extent possible, a balanced scientific and geographical representation.[47] It is noted that, when necessary, current subcommissions have sought the advice of other members of the Commission who specialize in areas of expertise not already represented within the subcommission.

This practice has not changed and several subcommissions have appointed a technical expert, also a member of the Commission, to provide assistance in his area of expertise.

47. The reduction of the number of members per subcommission should be considered in the light of the requirement of a balanced, scientific composition, as evidenced by the trend described above. It may also be recalled that, in the past, delegations expressed concern that this option would make it more difficult to establish subcommissions having geographical balance in their membership.[48]

48. The implementation of this measure would depend on an interpretation of article 5 of annex II to the Convention and would have financial implications.

F. Assistance from other bodies and increased support from outside expertise

49. According to article 3, paragraph 2, of annex II to the Convention, the

> Commission may cooperate, to the extent considered necessary and useful, with the Intergovernmental Oceanographic Commission of UNESCO, the International Hydrographic Organization and other competent international organizations with a view to exchanging scientific and technical information which might be of assistance in discharging the Commission's responsibilities.

50. To date, the Commission has not resorted to this possibility because the expertise required for the examination of submissions has been available from among its members. This measure would also give rise to complex issues concerning the confidentiality of the data and information included in submissions.

51. Procedural arrangements might need to be established to set up working relationships between the Commission and relevant organizations. At this stage therefore it is not possible to provide financial estimates without identifying, and consulting with, each of the organizations concerned.

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[47] See, inter alia, CLCS/32, para. 16, and CLCS/42, para. 19.

[48] See SPLOS/164, para. 66.

G. Forward planning by the Commission/subcommissions, consistency in technical issues and procedural matters by and between subcommissions and internal procedural measures to ensure more efficient conduct of the work of the Commission

52. As suggested by some delegations at the seventeenth Meeting of States Parties, in order to ensure continuity in the examination of a submission, subcommissions should consider retaining as specialists, members that are not re-elected at the end of their terms of office.[49]

53. At the eighteenth Meeting of States Parties, some delegations suggested that the Commission should consider more efficient ways to examine submissions. In that regard, a view was expressed that the Commission should proceed by way of establishing "precedents", which would then guide it in the examination of future submissions. According to that view, such precedents would have to be widely disseminated in order to facilitate the preparation of future submissions by coastal States. In this connection, it may be recalled that the summaries of recommendations are published on the website of the Commission.[50]

54. Regarding consistency in technical issues and procedural matters, it should be noted that the Commission had outlined the process of an examination of a submission in section IV, entitled "Main scientific and technical examination of the submission", paragraph 9 (Examination of the submission), of its "Modus operandi for the consideration of a submission made to the Commission on the Limits of the Continental Shelf".[51]

55. In addition, at the twelfth session of the Commission (during the consideration of the submission of the Russian Federation), it was proposed that the Commission compile an internal report for future reference on general "lessons learned" in order to preserve a record of experience with regard to various procedural, information technology and logistical matters, including data storage and handling, communications with the coastal State and so forth.[52] Such a paper was introduced at the thirteenth session of the Commission,[53] at which it was agreed that the lessons learned paper should be kept under review by the Commission to reflect its discussions and to incorporate the additional practical and useful points made by various members of the Commission.[54]

56. Furthermore, at its eighteenth session, the Commission addressed several technical issues of a general nature for which neither the Convention nor the Scientific and Technical Guidelines provided any specific guidance. The Commission convened an informal open-ended working group with a view to identifying a consistent methodology and approaches that the subcommissions might refer to, as necessary. The working group met on six occasions in order to establish an informal list of such issues and commenced discussions thereon.[55]

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[49] See SPLOS/174, para. 67.
[50] http://www.un.org/Depts/los/clcs_new/commission_recommendations.htm.
[51] See CLCS/40/Rev.1, annex III.
[52] See CLCS/36, para. 27.
[53] See CLCS/39, para. 8.
[54] See CLCS/39, para. 9.
[55] See CLCS/52, para. 50.

57. The Commission reverted to certain issues of a scientific and technical nature related to the implementation of article 76 of the Convention, which had arisen during the consideration of submissions before the Commission, at its twenty-first session. Several presentations on various issues were made. The presentations were of a general character and did not address issues relating to any specific submission. The Commission decided to continue its discussion of these issues at its next session.[56]

58. Thus, the Commission periodically addresses various scientific, technical, procedural, information technology and logistical matters with a view to achieving greater consistency in its proceedings and in the work of its subcommissions.

59. Regarding forward planning, the Secretariat provides administrative support to the Commission and its Chairman for the purpose of scheduling the examination of submissions. With each additional submission examined and recommendation issued, experience is gained which should allow for improved forward planning. However, most critical issues in this regard would be decisions regarding the increase in frequency of meetings of subcommissions and/or longer sessions of the Commission and/or the increase in the number of sessions of the Commission.

60. The measures described above would not have any direct financial implications on the members of the Commission or on the Secretariat. Their adoption would depend on internal decisions by the Commission about its working methods. It should be noted that the planning of interactions between subcommissions and coastal States depends on the specificities of each submission and may not be planned in a standardized manner.

H. Increased use of the Trust Fund to defray the cost of participation of members from developing States and possible establishment of an additional trust fund

61. At the seventeenth Meeting of States Parties, some delegations proposed the broadening of the scope of the terms of reference of the trust fund relating to the work of the Commission to, inter alia, include States with economies in transition among the beneficiaries of the voluntary fund established to facilitate the participation of members in the work of the Commission. Other delegations stated that they would not be in a position to contribute to a trust fund which would provide assistance to countries other than developing countries.[57]

62. The existing voluntary Trust Fund for the purpose of defraying the costs of participation of the members of the Commission from developing States in its meetings was established by the General Assembly in its resolution 55/7. The Trust Fund covers the per diem and round-trip economy class travel of members of the Commission from developing countries only.

63. Accordingly, if Commission members from States with economies in transition or other States were to have their costs of participation defrayed, the terms of reference of the existing Trust Fund would have to be modified.

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[56] See CLCS/58, paras. 51-55.

[57] SPLOS/164, para. 62.

VI. Financing options

64. Regarding the financing options referred to in the comments of the Informal Working Group, it is recalled that, at the Meetings of States Parties, a number of delegations had emphasized that the solution proposed by the Commission at that time, namely that the members of the Commission receive emoluments and expenses defrayed through the regular budget of the United Nations, needed to be consistent with the obligations of nominating States under article 2, paragraph 5, of annex II to the Convention.[58] As a matter of fact, the General Assembly repeatedly reiterated, most recently in its resolution 64/71, the duty of nominating States under the Convention, whose experts were serving on the Commission, to defray the expenses of the experts they had nominated while in performance of Commission duties, and called upon those States to do their utmost to ensure the full participation of those experts in the work of the Commission, including the meetings of subcommissions, in accordance with the Convention.

65. At the sixteenth Meeting, some delegations stated that, instead of exploring solutions incompatible with annex II to the Convention, greater use should be made of the Trust Fund to assist members of the Commission from developing States in participating in its meetings.[59] Furthermore, it was agreed at that time that [solutions] other than financing the Commission from the regular budget of the United Nations should be explored.[60]

66. With regard to proposals concerning the broadening of the scope of the terms of reference of the above-mentioned Trust Fund (see paras. 61-63 above), it is noted that the viability of such a solution would greatly depend on the ability and willingness of donors to contribute amounts sufficient to support the extended work of members of the Commission.

67. The proposal to defray the cost related to the participation of members in the work of the Commission through assessed contributions from States parties to the Convention has not yet been addressed by the Meeting of States Parties.[61]

68. When reference is made to the solutions to be found from existing resources, it is understood that this would apply only to the support provided to the Commission by the Secretariat, as no resources from the United Nations budget are currently allocated to facilitate participation of members of the Commission in its work.

69. Ultimately, the decision on the use of one or more of the proposed financing options rests with States parties to the Convention and/or States Members of the United Nations.

VII. Final observations

70. The measures outlined in Part V above are wide-ranging, cover all aspects of the work of the Commission and of its secretariat, and are not mutually exclusive. The Secretariat, on the basis of its experience and practice, believes that a holistic

[58] See SPLOS/148, para. 68, and SPLOS/164, para. 61.

[59] See SPLOS/148, para. 69.

[60] See SPLOS/148, para. 70.

[61] Scales of assessment used by the International Tribunal for the Law of the Sea and the International Seabed Authority are useful examples in this regard.

approach to addressing the issue of the increased workload of the Commission may require resorting to a combination of measures. Depending on the different procedural and financial requirements, there may be short-, medium- and long-term measures.

Short-term measures

71. A moderate increase in the number of weeks of subcommission work could be implemented as early as from the twenty-sixth session of the Commission (2-27 August 2010). The additional weeks of subcommission work, however, would be subject to the availability of the members of the Commission as well as the capacity of the States that nominated them to defray the increased costs of their participation.[62]

72. The increase in the number of weeks of subcommission work could result in the addition of weeks to the biannual sessions of the Commission by having either more frequent sessions of the Commission or more intersessional meetings of subcommissions. The first option would seem preferable as it would minimize the costs that would result from additional travel for the members of the Commission.

Medium-term measures

73. From a medium-term perspective, a further increase in the number of meetings of subcommissions, beyond the current working arrangements and above-mentioned short-term increase, could also be envisaged. This would inevitably lead to an extension of the plenary meetings of the Commission, involving full conference servicing support, including interpretation facilities, in particular to adopt an increased number of recommendations, which subcommissions would be able to prepare by virtue of the longer time at their disposal, and to hear the presentations by coastal States. By convening additional plenary meetings to deal with more work emanating from subcommissions, the Commission would speed up its consideration of submissions and issuance of recommendations. As far as the servicing provided by the Secretariat is concerned, additional plenary meetings in conjunction with a substantial increase in meetings of subcommissions beyond what is envisaged under short-term arrangements would require additional human and other resources.

Long-term measures

74. The possibility for the members of the Commission to work on a full-time basis at United Nations Headquarters would seem to be the most effective and efficient measure. This measure could be initially adopted for a limited period of time, subject to periodic reviews by the Meeting of States Parties, possibly starting with the new composition of the Commission after the elections in June 2012.

75. In this connection, it is recalled that article 2, paragraph 5, of annex II to the Convention establishes that "the State Party which submitted the nomination of a member of the Commission shall defray the expenses of that member while in performance of Commission duties".

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[62] See para. 34 above.

76. As a way to address the increased financial implications for the nominating States if the Commission were to operate on a full-time basis, the Meeting of States Parties could consider amending the terms of reference of the Trust Fund.

77. However, as trust funds are based on voluntary contributions, they could not provide the Commission with the financial stability that the Commission would require to perform its functions. The Meeting of States Parties could therefore consider the possibility of resorting to the method of assessed contributions used with respect to the International Tribunal for the Law of the Sea and the International Seabed Authority. In addition to the advantage of a sound financial basis for the functioning of the Commission, this option would offer equal conditions of service for all its members.

78. The establishment of a Commission working on a full-time basis at United Nations Headquarters would require a review of the arrangements for the servicing of the Commission by the Secretariat.

Annex

Submissions for which recommendations have been adopted

	Submitting State	*Date of submission*	*Date subcommission formed*	*Date recommendation adopted*
1.	Russian Federation	20 December 2001	28 March 2002	27 June 2002
2.	Brazil	17 May 2004	31 August 2004	4 April 2007
3.	Australia	15 November 2004	5 April 2005	9 April 2008
4.	Ireland (in respect of the Porcupine Abyssal Plain)	25 May 2005	30 August 2005	5 April 2007
5.	New Zealand	19 April 2006	21 August 2006	22 August 2008
6.	Joint submission by France, Ireland, Spain and the United Kingdom of Great Britain and Northern Ireland (in respect of the area of the Celtic Sea and the Bay of Biscay)	19 May 2006	22 August 2006	24 March 2009
7.	Norway (in respect of the north-east Atlantic and the Arctic)	27 November 2006	4 April 2007	27 March 2009
8.	Mexico (in respect of the western polygon in the Gulf of Mexico)	13 December 2007	1 April 2008	31 March 2009
9.	France (in respect of the areas of French Guiana and New Caledonia)	22 May 2007	31 August 2007	2 September 2009